



#26 Response

PATENT

Docket No.: 3553-4018

7/30/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jay S. Walker et al. Group Art Unit: 2165

Serial No : 09/252,574 Examiner: N. Rosen

Filed : February 18, 1999

For : SYSTEM AND METHOD FOR ALLOCATING BUSINESS TO ONE OF A  
PLURALITY OF SELLERS IN A BUYER DRIVEN ELECTRONIC  
COMMERCE SYSTEM

AMENDMENT

COMMISSIONER OF PATENTS  
P.O. Box 1450  
Alexandria, VA 22313

Sir:

In response to the Office Action dated June 14, 2002, Applicants respectfully request reconsideration of the instant application in view of the following remarks.

Rejections under 35 USC 103

In the instant office action, the Examiner rejected claims 2-25 and 29-43. The Examiner has rejected each of the pending claims in view of several references and various instances of "official notice". Applicants respectfully submit that the cited references fail to disclose or suggest the claimed invention, as defined by any of the pending independent claims of the instant application.

Applicants note that the instant invention is directed to an allocation system and method for a buyer-driven system. The conditional purchase offers of the instant application are

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received and considered by or on behalf of a plurality of sellers. In addition, in the instant application, the conditional purchase offer is specifically defined to include a buyer-specified price and a payment identifier specifying a financial account to be used to pay for the good or service upon acceptance of the conditional purchase offer by a seller. As such, no conditional purchase offer is considered by or on behalf of a seller until a buyer-specified price and a payment identifier are provided by the buyer. This feature, among others, is simply not disclosed or suggested by any cited reference(s).

The Hensley reference simply does not disclose or suggest such an arrangement, as acknowledged in the office action. However, the office action sets-forth that official notice is taken that it is well known to specify financial account identifiers, and refers to Table 3 of the Abel reference in support of this position. In this regard, Abel (at best) is directed to an arrangement where orders are placed and paid for. Abel simply does not disclose or suggest Applicants' claimed system in which an offer includes a buyer-specified price and a payment identifier to pay that price if accepted. Abel's use of some financial account to pay for an order is simply quite different from Applicant's claimed system in which a payment identifier is provided within a conditional purchase offer – in advance of any consideration of that conditional purchase offer.

Accordingly, Applicants respectfully submit that the cited references fail to disclose or suggest Applicants' present invention, as defined by any of the independent claims.

#### **REQUEST FOR AN INTERVIEW**

The Examiner is specifically requested to contact Applicants' undersigned representative for a telephonic interview to discuss any remaining issues.

AUTHORIZATION

If the Commissioner determines that an additional fee is due, or an additional extension of time required, applicant petitions for the extension of time, and authorizes the Commissioner to charge any required fee, or credit any overage, to deposit account 13-4500, Order No. 3553-4018. A duplicate of this sheet is included.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

By: \_\_\_\_\_

Walter G. Hanchuk  
Reg. No.: 35,179

Date: July 16, 2003\_

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